

The Grievance: Separating Fact from Fiction

- A Question and Answer Document Prepared for CUPE Members -

While the question of whether to file a grievance may seem daunting and even threatening, consider this fact about grievances: **They are simply the tool used to enforce your collectively bargained rights when your employer has failed to fulfill what it agreed to at the bargaining table.**

Grievances are often unnecessary because disputes can be resolved after a discussion with your supervisor or manager. However, sometimes the employer will actually encourage the union to file a grievance so that the dispute is documented. This documentation can allow the employer's representatives to take action where, absent a grievance, their hands may be tied.

- **How does a grievance work?** A grievance documents the union's concern(s) on behalf of its members. Once a grievance is submitted, or "filed" with the manager, it starts a formal process under the collective agreement that includes timelines for the union and employer representatives to meet and discuss the matter and how it may be resolved. If the union and employer ultimately cannot reach a resolution, the grievance may be advanced to arbitration. This is a quasi-judicial hearing where an arbitrator or board of arbitrators listens to evidence from the parties and issues a legally binding ruling to resolve the dispute.
- **Will we face retaliation for filing a grievance?** As stated above, it is understood that the grievance is simply the tool used to enforce collectively bargained rights. Therefore, there are typically no hard feelings from the employer when a grievance is necessary. Furthermore, when a grievance is filed it is between your union and the employer, so there is nothing personal between a member or group of members and management. The shop steward signs the grievance and only your union can decide whether to file it, resolve it, withdraw it or advance it to arbitration. Most employers understand and even support the grievance procedure, correctly viewing it as the mutually agreed process to address disputes. Furthermore, the BC Labour Code prevents employers from retaliating against unionized members for exercising their collective agreement rights.
- **What do we need to prepare for a grievance meeting?** Your shop steward will ask you to provide a summary of the issue in dispute before the first grievance meeting. Ideally, this is actually provided **before the grievance is even filed**. An accurate and clearly articulated summary of the who, what, when, where, why and how of the issue in dispute can mean the difference between a successful and an unsuccessful grievance - and certainly between a timely resolution or a protracted process to resolve a grievance.
- **What does the meeting look like? How should we prepare?** Grievance meetings with the employer are typically held in-person between the shop steward and manager, but may also involve the employer's HR Advisor and CUPE National Representative. The members involved in the grievance (referred to as "grievor(s)"), are also invited to attend the meetings. Upon agreement between the employer and union representatives, meetings may also be held by teleconference. Discussion is between the union's representative and employer's representative with the goal of sharing information to

determine facts. Typically, resolution of the grievance does not occur during the meeting. Instead, the parties agree to exchange information and/or documents within a specified timeframe, which then assists the parties in reaching an agreement on how to resolve the grievance in the weeks to follow.

- **I've only discovered an error or decided to pursue a grievance now, but the issue has been happening for months/years. Can a grievance still be filed?** Yes, we still generally encourage our members to pursue a remedy to the collective agreement violation. Contact your shop steward and see what can be done. The employer may be successful in arguing that the grievance is beyond timelines but, with a little push back by your union, will typically agree to correct the issue at least on a go-forward basis.
- **Not everyone on our team thinks we should file a grievance. Can we still go ahead?** Absolutely! Please speak to your shop steward and, depending on the facts, your CUPE Local may decide to file either an individual grievance or a group grievance on behalf of the affected team. Again, remember that the grievance is between your union and the employer.
- **What results should we look for?** Of course, there is no guarantee of a successful grievance, but our ability to be successful is increased significantly by having:
 1. Clear and unambiguous collective agreement terms that support you and what you need at work;
 2. A chronological summary of events leading up to the grievance and supporting evidence to show that the employer has violated the collective agreement;
 3. A membership which is active in its CUPE Local. By having a shop steward at each worksite, the communication between members and their union, members and the employer and the employer and union is improved significantly, as is enforcement of the collective agreement.
- **We don't have a steward at our office. What should we do?** Contact your CUPE Local and volunteer to be a shop steward. It is an educational, social, enjoyable and rewarding experience. Shop stewards are valued by their colleagues, their union, and yes, their employer too. Contact information for your Local is found here: <https://bcchs.cupe.ca/contact-us/>